

**Notice of Allowability****Application No.**

10/537,612

**Examiner**

MD. YOUNUS MEAH

**Applicant(s)**

GILARDI, GIANFRANCO

**Art Unit**

1652

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/6/08.
2. ☒ The allowed claim(s) is/are 1,3-5,12,13,15,16,21 and 22.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

**Notice of Allowability**

1. Applicants amendment of 11/06/2008 is acknowledged.
2. Claims 1, 3-13, 15-18, 21-23 and 26-27 are pending.
3. Claims 1, 3-5, 12-13, 15-16 and 21-22 are allowed
4. An examiner's amendment to the record appears below:

Applicants, on 12/4/2008, is advised that the restriction between groups I-IV (withdrawn claims 6-11) is vacated, and that the formerly withdrawn claims 6-11 will not be allowed at their present forms. For the purpose of expedited prosecution, applicants cancel the withdrawn claims except claim 16, which is rejoined and allowed after amendment. Claim 16 (subject matter of group V) previously withdrawn from consideration as a result of a restriction requirement. Pursuant to the procedures set forth in MPEP § 821.04(a), the restriction requirement between group IV (elected claims) and groups I-III and V inventions as set forth in the Office action mailed on, 01/17/07 is hereby vacated and claim 16 hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given by William J. Simmons with Telephone on 12/3/2008.

#### **EXAMINER'S AMENDMENT**

Cancel claims 6-11, 17-18, 23 and 26-27.

Rewrite the claims 3 and 16 as follows:

Claim 3. The protein of claim 1, wherein the redox centre is bound to the protein, by coordination by one or more of histidine, methionine or cysteine residues.

Claim 16. A method of producing the protein of SEQ ID NO: 11 comprising culturing a transformed microorganism transformed with a nucleotide sequence encoding said protein, and thereby producing the protein.

The following is an examiner's statement of reasons for allowance:

Applicant has made novel  $\alpha$ -helix bundle motif of the repressor of primer (ROP) SEQ ID NO: 11 having a redox center comprising haem group. Prior art does not anticipate or suggest  $\alpha$ -helix bundle motif of the repressor of primer (ROP) of SEQ ID NO: 11. As such  $\alpha$ -helix bundle motif of the repressor of primer (ROP) of SEQ ID NO: 11 is novel and non-obvious.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Meah whose telephone number is 571-272-1261. The examiner can normally be reached on 8:30-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NASHAAT T NASHED can be reached on 571-272-0934. The fax phone number for the organization where this application or proceeding is assigned is 571-273-1261.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Nashaat T. Nashed/  
Supervisory Patent Examiner, Art Unit 1652